

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES S. ERVIN, SR., 06740-027,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 23-cv-3926-DWD
)	
E. WILLIAMS ,ET AL.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

DUGAN, District Judge:

On December 29, 2023, the Court reviewed Plaintiff's pleadings and determined that despite his representations, he had three strikes under the PLRA (28 U.S.C. § 1915(g)) and was ineligible to proceed without prepayment of the full \$405 filing fee. (Doc. 7). The Court afforded Plaintiff 21 days to pay the filing fee, by January 19, 2024. Rather than pay the fee, Plaintiff moved for reconsideration. (Doc. 9). His request was denied, but he was afforded until March 22, 2024, to pay the \$405 filing fee. (Doc. 10). Plaintiff has now filed a "response" to the Court's Order denying his Motion to Reconsider. (Doc. 11). In the response, Plaintiff seeks permission to pay the fee in four installments, or he seeks leave to refile this case six months from now without any statute of limitations constraints. Plaintiff adds some new factual allegations about his current living situation (a lockdown) and about recent events tied to his underlying allegations.

As the Court previously explained, the assessment of a full filing fee to an individual with three "strikes" is not discretionary under 28 U.S.C. § 1915. Given that the

assessment of the fee is controlled by statute, the Court cannot accept Plaintiff's proposed payment plan of four installments. To accept a payment plan would be to render the three strikes rule null and void, because it would essentially allow Plaintiff to proceed as if he has been granted in forma pauperis status, and a partial filing fee. Additionally, to the extent Plaintiff argues that the Court should defer collection of the payment or should let him refile in six months regardless of the statute of limitations, the Court also cannot grant him this benefit because it is just another way to sidestep the three-strike limitation and the associated filing fees.

Plaintiff's request for a payment plan or permission to file at a later date is **DENIED**. If Plaintiff does not pay the \$405 fee by April 22, 2024, this case will be dismissed without prejudice for failure to pay the filing fee. This is the final warning, further motions to reconsider or for alternative options will not be entertained.

IT IS SO ORDERED.

Dated: April 1, 2024

/s David W. Dugan

DAVID W. DUGAN
United States District Judge